

**CALGARY
ASSESSMENT REVIEW BOARD
DECISION WITH REASONS**

In the matter of the complaint against the property assessment as provided by the *Municipal Government Act*, Chapter M-26, Section 460, Revised Statutes of Alberta 2000 (the Act).

between:

R & N Properties Ltd., COMPLAINANT

and

The City Of Calgary, RESPONDENT

before:

M. Vercillo, PRESIDING OFFICER

K. Farn, MEMBER

P. Charuk, MEMBER

This is a complaint to the Calgary Assessment Review Board in respect of a property assessment prepared by the Assessor of The City of Calgary and entered in the 2011 Assessment Roll as follows:

ROLL NUMBER: 200163418

LOCATION ADDRESS: 1720 RADISSON DR SE

HEARING NUMBER: 62842

ASSESSMENT: \$1,460,000

This complaint was heard on the 30th day of September, 2011 at the office of the Assessment Review Board located at Floor Number 4, 1212 – 31 Avenue NE, Calgary, Alberta, Boardroom 3.

Appeared on behalf of the Complainant:

- *A. Izard*
- *G. Lane*
- *K. Fong*

Appeared on behalf of the Respondent:

- *K. Gardiner*

Board's Decision in Respect of Procedural or Jurisdictional Matters:

The Calgary Composite Assessment Review Board (CARB) derives its authority to make this decision under Part 11 of the Act. No specific jurisdictional or procedural issues were raised during the course of the hearing, and the CARB proceeded to hear the merits of the complaint, as outlined below.

Property Description and Background:

The subject property is a freestanding automotive repair shop known as ZR Auto and is located in the "Forest Lawn" area of SE Calgary. The subject is a commercial condominium unit and according to the information provided on the Assessment Summary Report, the property contains one building that was constructed in 1971, with a net rentable area of 6,700 square feet (sf). The building is situated on a 0.59 acre or approximately 25,834 sf site and has a land use designation of "Commercial Corridor 2" (C-COR2).

The property is assessed using the Sales Comparison Approach to value. According to the information provided by the Respondent, the subject is assessed on the basis of land value only at a rate of \$56.51 per square foot (psf).

Issues:

The Complainant addressed the following matter or issue (as restated) that was raised on the complaint form and is still in dispute as of the date of this hearing:

- 1) The assessed rental rate of \$18.00 psf applied to the subject property is neither fair nor equitable and should be adjusted to a rate of \$14.00 psf given its inferior location with no access or exposure from 17 AV SE.

Complainant's Requested Value:

\$1,110,000 on the complaint form and at this hearing.

Board's Decision in Respect of Each Matter or Issue:

ISSUE 1: The assessed rental rate of \$18.00 psf applied to the subject property is neither fair nor equitable and should be adjusted to a rate of \$14.00 psf given its inferior location with no access or exposure from 17 AV SE.

The Complainant provided a document entitled "Evidence Submission of the Complainant" that was entered as "Exhibit C1". The Complainant along with Exhibit C1 provided the following evidence with respect to this issue:

- The 2011 Property Assessment Notice indicated that the subject property was assessed a value of \$928,000 in 2010.
- A number of prior CARB and Municipal Government Board decisions analyzing the "highest and best use" approach. The common theme in those decisions seemed to be that without a proper and exhaustive study of highest and best use of a particular property, valuation methods chosen can be erroneous in estimating market value.
- A City of Calgary Assessment Summary Report indicating that the subject is considered to have a subproperty use of CM0706 – Retail Vehicle/Accessories – Auto repair/Parts and is assessed using the "Sales" approach to value.
- A number of 2011 Business Assessment comparables were provided. Particular attention was given to the lease rates of other automotive repair shops with the same or similar subproperty uses as the subject and in the Forest Lawn community. The 5 comparables had assessed lease rates of \$14.00 psf.
- A number of comparable automotive shop property assessments of similar vintage and quality were provided. The following is a summary of that information:
 - 5260 17 AV SE. Assessed under the Cost Approach. The Complainant calculated an equivalent rate of \$16.25 psf using an alternative Income Approach with a 6.50% vacancy rate, a \$7.00 psf vacancy shortfall, a 1% non-recoverable allowance and a capitalization rate of 7.50%.
 - 4710 17 AV SE. Assessed using the Income Approach at a rate of \$14.00 psf for the automotive space with a 7.25% vacancy rate, a \$7.00 psf vacancy shortfall, a 1% non-recoverable allowance and a capitalization rate of 7.25%.
 - 4314 17 AV SE. Assessed using the Sales Approach like the subject. The CARB noted that the land area of 5,692 sf is substantially smaller than the subject. The Complainant calculated an equivalent rate of \$15.50 psf using an alternative Income Approach with a 6.50% vacancy rate, a \$7.00 psf vacancy shortfall, a 1% non-recoverable allowance and a capitalization rate of 7.50%.
 - 1005 Centre ST NW. Assessed using the Income Approach. The Complainant calculated an equivalent rate of \$13.50 psf using an estimated Income Approach with a 6.50% vacancy rate, a \$7.00 psf vacancy shortfall, a 1% non-recoverable allowance and a capitalization rate of 7.50%.
 - 5702 Macleod TR SW. Assessed using the Income Approach. The Complainant calculated an equivalent rate of \$8.00 psf using an estimated Income Approach with a 6.50% vacancy rate, a \$7.00 psf vacancy shortfall, a 1% non-recoverable allowance and a capitalization rate of 7.50%.
- The Complainant concluded his analysis by stating that the requested assessed rental rate of \$14.00 psf under the alternative Income Approach to value, with a 6.50% vacancy rate, a \$7.00 psf vacancy shortfall, a 1% non-recoverable allowance and a capitalization rate of 7.50%, is fair and equitable to current lease rate of \$14.92 psf achieved on the subject property and to the automotive shop comparables as analyzed.

The Respondent provided a document entitled "Assessment Brief" that was entered as "Exhibit R1". The Respondent along with Exhibit R1 provided the following evidence with respect to this issue:

- Testimony that the Complaint Form did not state that the valuation approach was an issue. Therefore, either the Complainant is unaware of how the assessment is derived, or if aware, has knowingly filed irrelevant and misleading evidence.
- A table of 2011 commercial land rates. The subject has a land use designation and accordingly is assessed at a rate of \$65 psf for the first 20,000 sf and \$28.00 psf for the remaining sf.
- During questioning from the CARB it was revealed that in 2010, the subject was assessed using the Income Approach. The 2011 assessment was changed to the Sales Comparison Approach to reflect that the land value has now exceeded its income producing potential in its present state.

The CARB finds the following with respect to this issue:

- The change in valuation method from the Income Approach in 2010 to the Sales Comparison Approach valuing land only in 2011 may have contributed significantly to \$532,000 increase to the assessment of the subject.
- The Income Approach analysis of the subject and the comparables as provided by the Complainant are reasonable in derivation and application. The Complainant was aware that the Respondent changed his valuation method in the 2011 assessment and simply offered the same approach as was used in 2010 by the Respondent.
- The Respondent provided no market evidence whatsoever to support his change in assessment approach.

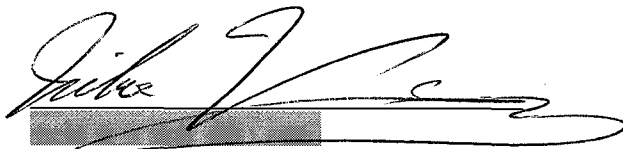
Board's Decision:

The complaint is allowed and the assessment is revised to \$1,110,000.

The CARB determined the following in arriving at its decision:

- The Respondent chose to provide no evidence to support his position. He instead relied on the supposition that the Complainant had filed an erroneous complaint and was without merit. The CARB disagrees with the Respondent's supposition.
- The Complainant provided an alternative income approach to valuation which was supported by his evidence.

DATED AT THE CITY OF CALGARY THIS 19 DAY OF October 2011.



Presiding Officer

APPENDIX "A"**DOCUMENTS PRESENTED AT THE HEARING
AND CONSIDERED BY THE BOARD:**

NO.	ITEM
1. C1	Complainant Disclosure
2. R1	Respondent Disclosure

An appeal may be made to the Court of Queen's Bench on a question of law or jurisdiction with respect to a decision of an assessment review board.

Any of the following may appeal the decision of an assessment review board:

- (a) the complainant;*
- (b) an assessed person, other than the complainant, who is affected by the decision;*
- (c) the municipality, if the decision being appealed relates to property that is within the boundaries of that municipality;*
- (d) the assessor for a municipality referred to in clause (c).*

An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision, and notice of the application for leave to appeal must be given to

- (a) the assessment review board, and*
- (b) any other persons as the judge directs.*